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In re Application of	:	
SODE et al.	:	
Application No.: 10/526,049	:	DECISION
PCT No.: PCT/JP2003/010541	:	
Int. Filing Date: 20 August 2003	:	
Priority Date: 30 August 2002	:	
Attorney Docket No.: 10921.0287USWO	:	
For: PROCESS FOR PRODUCING	:	
GLUCOSE DEHYDROGENASES	:	

This decision is in response to applicants' "REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT", which has properly been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 21 August 2006. No petition fee is required.

BACKGROUND

On 20 August 2003, applicants filed international application PCT/JP2003/010541, which designated the United States and claimed a priority date of 30 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2005.

On 28 February 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration of inventors.

On 13 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The Notification set a two-month extendable period for reply.

On 21 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2005.

On 21 August 2006, applicants filed the instant "REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT". The petition was accompanied by, *inter alia*, a copy of a "COMMUNICATION REGARDING MISSING REQUIREMENTS", a copy of a declaration of inventors, and a copy of an "Auto-Reply Facsimile Transmission" from the USPTO dated 28 September 2005.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 28 September 2005 applicants filed a declaration of the inventors. The proof is in the form of the copy of the "Auto-Reply Facsimile Transmission" which bears a date of 28 September 2005 and which itemizes an "Executed Combined Declaration and Power of Attorney" and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the declaration filed 21 August 2006 is a copy of the declaration originally filed 28 September 2005. Therefore, in view of the "Auto-Reply Facsimile Transmission" and practitioner's statement, the declaration received on 21 August 2006 may properly be accepted as originally received in the USPTO on 28 September 2005. The NOTIFICATION OF ABANDONMENT mailed 21 July 2006 is hereby vacated.

Declaration of Inventors

The declaration of inventors filed 28 September 2005 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

The surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 50-3478.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 21 July 2006 is **VACATED**.

Since the reply filed 28 September 2005 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate. Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

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Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT
Legal Administration.


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